



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

JOHN D. CHERRY, JR.  
LT. GOVERNOR

June 6, 2005

The Honorable John D. Dingell  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Bart Stupak  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Mike Rogers  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Fred Upton  
United States House of Representatives  
Washington, D.C. 20515

Dear Representatives Dingell, Stupak, Rogers, and Upton:

I understand that the Sub-Committee on Environment and Hazardous Materials will be considering this week a substitute amendment to H.R. 2491 sponsored by Representative Paul E. Gillmor. H.R. 2491 would address the issue of international shipment of solid waste by authorizing the United States Environmental Protection Agency (EPA) to promulgate regulations implementing the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada (Agreement). In addition, and of more important interest to Michigan, it would authorize states to regulate foreign municipal solid waste importation until regulations to implement and enforce the Agreement become effective. Because of the benefits H.R. 2491 would provide to Michigan, I urge your favorable consideration.

Michigan's ability to manage the importation of solid waste is crucial to being able to comprehensively manage an environmentally sound solid waste disposal. In 1992, the United States Supreme Court ruled that provisions of Michigan's Solid Waste Management Act, which allowed counties to impose restrictions on the importation of solid waste from other states and countries through Solid Waste Management Plans, violated the United States Constitution and were not enforceable. Since then, Michigan has struggled with the costs imposed by imported solid waste and our inability to adequately manage it. Since 1996, when Michigan first began collecting the data, we have seen an overall increase of 26 percent in the amount of solid waste being generated in Michigan. However, during this same time period, the amount of waste from Canada being disposed of in Michigan rose by 335 percent - from 2.7 million cubic yards to 11.6 million cubic yards.

Waste from Canada and other states makes up approximately 18 percent and 10 percent, respectively, of the total solid waste disposed of annually in Michigan. As a result, Michigan will lose one full year of landfill capacity every four years because of the disposal of imported waste in Michigan landfills.

The increase in waste importation has had a real effect on the citizens and environment of Michigan. On average, hundreds of trash trucks from Canada travel Michigan roads each day heading for a Michigan landfill to dispose of Canadian waste. The trucks increase the danger to Michigan citizens traveling those roadways, advance wear and tear on Michigan roads, and emit increased air pollutants that Michigan citizens breathe. As Canadian waste fills our landfills, Michigan will have to consume more valuable open space to site new landfills than we would otherwise need. Every new landfill also increases the potential for groundwater contamination and the loss of precious drinking water supplies.

But for Michigan citizens, the more immediate effects of imported waste also matter. To them, the number of trucks idling at the landfill gate waiting their turn to dump imported waste means more noise, more odors, and more disruption of their lives. Our citizens don't understand why, if they have taken the responsibility to accept a neighborhood landfill for disposal of their own waste, why people in other states and countries do not do the same. It becomes difficult for our citizens to justify the time and effort to recycle paper, plastic, bottles and cans to save landfill space, if it is just going to be used up by those in other states and countries. And these are people who are asking—and asking with increasing fervor—why their elected representatives and the agency officials appointed to assist them, cannot address their concerns.

Thankfully, HR. 2491 would begin to address these problems. The bill would, for the first time, empower states to enact laws regulating municipal solid waste importation from foreign countries. H.R. 2491 does not affect the need for consistency with international trade obligations, but it does explicitly provide that state action regulating foreign municipal solid waste does not violate constitutional restrictions on the states' ability to regulate commerce. Eliminating this barrier would allow states to develop solid waste management systems that can better account for their internal disposal without the threat of disruption from unpredictable and uncontrollable volumes of imported foreign waste. I expect that Michigan would move quickly to take advantage of this new federal authority, if it is granted.

Under HR 2491, state laws would need to be enacted before the EPA promulgates rules to implement the Agreement or the state would lose the opportunity. However, if a state takes action before implementation of the Agreement, those state laws will continue to remain in effect. Therefore, I encourage clarifying the authority of states to amend regulatory programs after the EPA promulgates rules to implement the Agreement to meet evolving waste management needs.

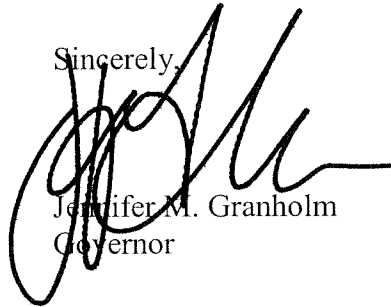
Beyond authorizing state action, I also support H.R. 2491 because it requires the EPA to recognize state concerns when considering foreign municipal solid waste

importation. Specifically, when determining whether to consent to such importation, the EPA is required to give substantial weight to the views of the importing state and the local jurisdiction where the waste will be disposed. The EPA is also required to consider the impact of the importation on a variety of state policy concerns, including the effect on recycling, landfill capacity, and the negative effects of increased vehicular traffic. Because of these criteria, EPA's exercise of its authority for solid waste under the Agreement would necessarily be more broadly based than currently employed for hazardous waste.

It should be recognized that H.R. 2491 does not address domestic interstate solid waste issues. Attention to that aspect of waste flow is necessary to truly allow states to comprehensively manage their solid waste system. H.R. 2491 takes a very important first step in that direction, and I urge favorable action on it.

Should you require further information, please contact Mr. Steven Chester, Director of the Michigan Department of Environmental Quality, at 517-373-7917.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer M. Granholm", is written over the typed name and title.

Jennifer M. Granholm  
Governor

JMG/pd

c: Dan Beattie, Governor's Washington Office  
Steven Chester, DEQ  
Jim Sygo, DEQ  
George Bruchmann, DEQ  
Frank Ruswick, DEQ